APPEAL AND ERROR—ORDER VACATING A DEFAULT JUDGMENT.—Where the defendant at a term of the court subsequent to the one during which a judgment by default had been entered against him, made a motion to vacate said judgment on account of alleged errors in fact, the question was whether an order setting aside the default and judgment was a final order from which an appeal could be prosecuted. *Held,* appealable. *Cramer* v. *Illinois Commercial Men's Association,* (Ill. 1913) 103 N. E. 549.

There is considerable conflict upon this proposition, but it is believed that in the absence of express statutory regulation of the subject the weight of authority is contrary to the decision in the principal case. *Thomas* v. *Thomas,* 10 Colo. App. 170; *Owen* v. *Going,* 7 Colo. 85; *Meloy* v. *Grant,* 4 Mackey (D. C.) 486; *Spaulding* v. *Thompson,* 12 Ind. 477, 74 Am. Dec. 221; *Masten* v. *Indiana Car Co.,* 19 Ind. App. 633; *Kermeyer* v. *Kansas Pac. R. R. Co.,* 18 Kans. 315; *Fortin* v. *Randolph,* 11 Mart. (La.) 268; *Woodcock* v. *Parker,* 34 Me. 593; *Wade* v. *DeLeyer,* 63 N. Y. 318; *Miller* v. *Tyler,* 58 N. Y. 477; *Reitmeir* v. *Siegmund,* 13 Wash. 624; *Carroll* v. *Vaughn,* 48 Ala. 352; *Hume* v. *Bowie,* 148 U. S. 245. The remedy of the opposing party under such circumstances is to proceed no farther, but suffer final judgment to be taken against him and appeal therefrom. *Domitski* v. *American Linseed Co.,* 221 Ill. 161; *Hirsh* v. *Weisberger,* 44 Mo. App. 507; *List* v. *Joeheck,* 45 Kans. 349; *Moore* v. *Hill,* 87 Ga. 91. Several courts, however, regard such an order as final and appealable. *People's Ice Co.* v. *Schlenker,* 50 Minn. 1; *Ballard* v. *Purcell,* 1 Nev. 290; *Deering* v. *Quivey,* 26 Or. 556; *Carney* v. *Railroad,* 15 Wis. 503; *Tidwell* v. *Witharspoon,* 18 Fla. 282; *Johnson* v. *Parrotte,* 34 Nebr. 26. In Ohio the same result has been reached by reason of the liberal construction of a statute covering the subject of appeals. *Braden* v. *Hoffman,* 46 Oh. St. 639. The decision in the principal case is especially noteworthy from the fact that it seems to overrule or at least to restrain within very narrow limits the case of *Walker* v. *Oliver,* decided by the same court in 63 Ill. 199, which case was cited with approval in the recent case of *People* v. *Wells,* 255 Ill. 450. The court attempts to distinguish the two cases on the ground that where the error for which the judgment is vacated is one of fact the order is appealable, whereas if the mistake is one of law, as in *Walker* v. *Oliver,* it is not appealable. The same distinction is pointed out in *Hirsch* v. *Weisberger,* 44 Mo. App. 507. This distinction does not seem to be well founded for the reason that the question as to whether an order is final and appealable depends upon its character with reference to the effect which it has upon the rights of the parties, and not upon the intrinsic nature of the error upon which it is predicated.

BAILMENTS—RIGHT OF BAILEE FOR HIRE TO STIPULATE AGAINST LIABILITY FOR NEGLIGENCE, NOT AMOUNTING TO WILLFUL MISCONDUCT OR FRAUD.—The defendant, for a suitable consideration, stored the automobile of the plaintiff, the latter assuming risk of injury to the machine. The pressure of snow, which the defendant negligently allowed to accumulate, caused the roof to give way, and fall upon the machine. The plaintiff brought suit for the damage. *Held,* that recovery could be had, the stipulation relieving the bailee